

APPLICATION ON PAPERS

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Muddsar Shahzad
Considered on:	Thursday, 18 January 2024
Location:	Held remotely by video conference
Chair:	Mr Andrew Popat CBE
Legal Adviser:	Mr Andrew Granville Stafford
Outcome	Consent order approved

INTRODUCTION

1. This matter has been referred to a Chair of the Disciplinary Committee of ACCA ('the Chair') pursuant to Regulation 8(8) of the Complaints and Disciplinary Regulations ('CDR') to determine on the basis of the evidence before him whether to approve the draft Consent Order. Under CDR 8(8), a Consent Order is made by a Chair of the Disciplinary Committee in the absence of the parties and without a hearing.
2. The Chair had before him a Consent Order Draft Agreement (6 pages), a bundle of documents (387 pages), and two costs schedules.

CONSENT ORDER DRAFT AGREEMENT

3. The Consent Order Draft Agreement was signed by Mr Shahzad on 03 December 2023 and by a representative of ACCA on 29 November 2023. It reads as follows.

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'The Association of Chartered Certified Accountants (ACCA) and Mr Muddsar Shahzad (the Parties), agree as follows:

1. Mr Muddsar Shahzad admits the following:

Allegation 1

Mr Muddsar Shahzad, a Fellow of the Association of Chartered Certified Accountants (ACCA):

1) Breached the Global Practising Regulations 2003 (as applicable between 2013 to 2023) with regard to any or all of the following:

(a) Between 09 July 2013 to 19 January 2023, he has been carrying on public practice without a practising certificate, contrary to Regulation 3(1)(a) of the Global Practising Regulations 2003.

(b) Between 09 July 2013 to 19 January 2023, he has been the Director of Firm A ("the Firm") where public practice is carried on in the name of the Firm, without a practising certificate, contrary to Regulation 3(2)(a) of the Global Practising Regulations 2003.

(c) During the below periods, he held rights in the Firm, which in effect put him in the position of a Principal of a Firm, where public practice is carried on in the name of the Firm, without a practising certificate, contrary to paragraph 3(2)(b) of the Global Practising Regulations 2003.

- 09 July 2013 to 07 June 2016, he held shares of 100%;*
- 08 June 2016 to 05 September 2022, he held shares of 50%;*
- 06 September 2022 to 25 December 2022 he held shares of 40% and;*
- 26 December 2022 to 19 January 2023, he held shares of 51%*

2) Between 26 June 2017 and 30 November 2022, Mr Shahzad failed to

comply with the Money Laundering, Terrorist Financing and Transfer of Funds (information on the payer) Regulations 2017 by not registering with a supervisory authority for Anti-Money Laundering (AML) purposes.

- 3) *Submitted Continuing Professional Development (CPD) declarations to ACCA, as set out in schedule 1, in which he declared in respect of one or more of those declarations that he had not engaged in public practice activities without holding an ACCA practising certificate.*
- 4) *Mr Shahzad's conduct in respect of allegation 3 was reckless, in that he declared he had not been engaging in public practice without a practising certificate, without proper regard as to whether this was accurate.*
- 5) *By reason of his conduct above Mr Shahzad is:*
 - (i) *Guilty of misconduct pursuant to bye-law 8(a)(i) or, in the alternative*
 - (ii) *Liable to disciplinary action pursuant to byelaw 8(a)(iii) in respect of allegations 1 to 3*

Schedule 1

<i>CPD Public Practice Declaration</i>	<i>Date Submitted to ACCA</i>
<i>2013 CPD Declaration</i>	<i>18 February 2014</i>
<i>2014 CPD Declaration</i>	<i>25 August 2015</i>
<i>2015 CPD Declaration</i>	<i>25 August 2015</i>
<i>2016 CPD Declaration</i>	<i>28 March 2017</i>
<i>2017 CPD Declaration</i>	<i>01 January 2018</i>
<i>2018 CPD Declaration</i>	<i>09 February 2019</i>
<i>2019 CPD Declaration</i>	<i>20 December 2019 & 18 August 2020</i>
<i>2020 CPD Declaration</i>	<i>16 March 2022</i>
<i>2021 CPD Declaration</i>	<i>16 March 2022 & 24 January 2023</i>
<i>2022 CPD Declaration</i>	<i>24 March 2023</i>

2. *That Mr Muddsar Shahzad be severely reprimanded and shall pay a fine of **£4,498** and costs to ACCA in the sum of **£1,493.**'*
4. The relevant background and facts are set out in an appendix to the agreement which reads as follows.

'Relevant Facts, Failings and/or Breaches

3. *The Investigating Officer has conducted their investigation into the allegations against Mr Muddsar Shahzad in accordance with Regulation 8(1)(a) of the Complaints and Disciplinary Regulations (CDR) (2019) and is satisfied that:*
 - a. *They have conducted the appropriate level of investigation as evidenced by the enclosed evidence bundle (pages 1 to 387) and determined that there is a case to answer against Mr Muddsar Shahzad and there is a real prospect of a reasonable tribunal finding the allegations proved; and*
 - b. *The proposed allegations would be unlikely to result in exclusion from membership.*
4. *The relevant facts, failings and/or breaches have been agreed between the parties and are set out in the detailed allegations above together with the proposed sanction and costs.*
5. *A summary of key facts is set out below:*
 - *Mr Muddsar Shahzad has been the Director and Principal of Firm called Firm A ["The Firm"] (formerly known as [Private]. The Firm provides accounting, auditing, bookkeeping and tax consultancy services.*
 - *Mr Shahzad did not have a practicing certificate during the above periods of breach he was unaware he required one by way of his Directorship and shareholding in public practice firm and by engaging in public practice activities. Upon realisation he began ACCA's practicing certificate process in 2019 and was issued with an ACCA practising certificate on 20 January 2023.*
 - *Mr Shahzad did not have Anti Money Laundering supervision between 24 June 2017 to 30 November 2022 and Professional Indemnity Insurance (PII) between 09 July 2013 to 12 July 2015.*
 - *Mr Shahzad submitted annual CPD declarations for the years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022,*

declaring that he had not engaged in public practice activities without holding an ACCA practising certificate, when this was not accurate.

Sanction

6. *The appropriate sanction is **severe reprimand**.*

7. *In considering this to be the most appropriate sanction, ACCA's Guidance for Disciplinary Sanctions (Guidance) has been considered and particularly the key principles. One of the key principles is that of the public interest, which includes the following:*
 - *Protection of members of the public;*

 - *Maintenance of public confidence in the profession and in ACCA; and*

 - *Declaring and upholding proper standards of conduct and performance.*

8. *Another key principle is that of proportionality, that is, balancing the member's own interests against the public interest. Further the aggravating and mitigating features of the case have been considered.*

9. *The **aggravating factors** are considered to be as follows:*
 - *Mr Shahzad undertook public practice without an ACCA practising certificate for almost 10 years.*

 - *Mr Shahzad failed to comply with the Money Laundering, Terrorist Financing and Transfer of Funds (information on the payer) Regulations 2017 by not obtaining AML supervision between 24 June 2017 to 30 November 2022, despite being aware of this requirement in 2017.*

 - *HMRC imposed a financial penalty on the Firm on 28 February 2023 for trading whilst not registered for AML supervision.*

- *The Firm did not have professional indemnity insurance between 09 July 2013 to 12th July 2015.*
 - *Mr Shahzad signed and submitted annual CPD declarations to ACCA as set out in Schedule 1 above, declaring that he had not been engaging in public practice activities without an ACCA practising certificate, without proper regard as to whether this was accurate.*
 - *The misconduct alleged has endured over a protracted, rather than short, period of time.*
10. *In deciding that a **severe reprimand** is the most suitable sanction paragraphs C4.1 to C4.5 of ACCA's Guidance have been considered and the following **mitigating factors** have been noted:*
- *Mr Shahzad has fully co-operated with the investigation and regulatory process and there does not appear to be any continuing risk to the public.*
 - *Mr Shahzad has complied with ACCA's directions and advice and has fully regularised his position by obtaining an ACCA practising certificate on 20 January 2023. He has provided evidence to show he has been AML supervised by HMRC since 01 December 2022 and The Firm has held PII since 13 July 2015.*
 - *The consequences of Mr Shahzad's conduct have not caused material distress, inconvenience or loss.*
 - *Mr Shahzad has provided ACCA with character and employee references which support his professionalism, workmanship, generosity and good nature.*
 - *Mr Shahzad has acknowledged his failings and is extremely remorseful and has apologized for any inconvenience he has caused.*
 - *Mr Shahzad has admitted to making inaccurate CPD declarations from 2013 to 2022 and has explained that such inaccuracies were an oversight and were unintentional. He assured ACCA he will be*

more attentive and careful when making declarations in the future.

- *Mr Shahzad has provided a document outlining his mitigating circumstances (pages 361 to 368). In this document, he has highlighted the challenges he faced during the practicing certificate process which led to him not being able to engage consistently and promptly, [Private].*
- *Mr Shahzad was not issued with an ACCA practicing certificate until January 2023 as it had taken a lengthy amount time for his practicing certificate to be further assessed and considered by ACCA's Authorisations Department and ACCA's Policy Team after August 2020.*

*ACCA has considered the other available sanctions and is of the view that they are not appropriate. ACCA considers that a **severe reprimand** proportionately reflects Mr Muddsar Shahzad's conduct and the public policy considerations which ACCA must consider in deciding on the appropriate sanction. This is a public interest sanction due to the misconduct bringing discredit to ACCA and the profession; and it conveys a message of the importance of fundamental standards of professional conduct.'*

DECISION

5. The powers available to the Chair are to:
 - (a) Approve the draft Consent Order, in which case the findings on the allegations and the orders contained in it become formal findings and orders (CDR 8(11) and 8(14));
 - (b) Reject the draft Consent Order, which he may only do if he is of the view that the admitted breaches would more likely than not result in exclusion from membership (CDR 8(12));
 - (c) Recommend amendments to the draft Consent Order, if he is satisfied it is appropriate to deal with the complaint by way of consent but wishes the terms of the draft order to be amended (CDR 8(13)).
6. The Chair carefully considered all the papers before him and bore in mind the

need to protect the public and to act proportionately. The Chair was satisfied, in all the circumstances, that it was appropriate to make a Consent Order in the terms agreed between the parties.

7. The Chair noted that Mr Shahzad had made full admissions to the matters alleged against him and was satisfied, on the basis of the evidence before him, that those admissions had been properly made.
8. The Chair considered that a sufficiently full and thorough investigation had been carried out and that there clearly was, if the case proceeded to a hearing, a real prospect that the allegations would be found proved.
9. The Chair noted the contents of paragraphs 9 and 10 of the agreed background and considered that they accurately and appropriately set out the aggravating and mitigating features in this matter. In particular, the Chair accepted that the misconduct in this case arose as a result of a genuine mistake on Mr Shahzad's behalf.
10. The Chair did not consider exclusion was a likely sanction if the matter proceeded to a hearing before the Disciplinary Committee; and further was satisfied that the proposed sanction of a severe reprimand and fine was appropriate and proportionate in the circumstances of the case.
11. The Chair was satisfied that level of both the fine and the costs was reasonable in all the circumstances.
12. The Chair did not consider that there was any need to exercise his power to suggest amendments to the draft Consent Order.
13. Therefore, the Chair approved the draft Consent Order.

ORDER

14. The Chair made the following order:
 - i. The draft Consent Order is approved.
 - ii. Allegations 1(1) to 1(5) are proved by admission.
 - iii. Mr Shahzad is severely reprimanded and fined £4,498.00.

- iv. Mr Shahzad is ordered to pay costs to ACCA in the sum of £1,493.00.
15. Under CDR 8(17) there is no right of appeal against this order. Therefore, this order comes into effect immediately.

Mr Andrew Popat CBE
Chair
18 January 2023